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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant/
Real Party in Interest : HOWARD LEE

Serial Number : 09/932,629

Filed : 8/17/2001

For : SCREW DRIVER SYSTEM

Examiner : SMITH, JAMES G.

Group Art Unit : 3723

ATTORNEY DOCKET : LD27/01

Commissioner for Patents
Alexandria, VA 22313-1450

APPLICANT'S APPEAL BRIEF
(Submitted in Triplicate)

This is an appeal from the Examiner's Final Rejection of
February 12, 2004.

REAL PARTY IN INTEREST

The real party in interest in this appeal is applicant
HOWARD LEE.

RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences which will
directly affect, or be directly affected by, or have a bearing
on, the decision in the pending appeal.

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STATUS OF THE CLAIM

The status of the claims in this application is:

A. TOTAL NUMBER OF CLAIMS IN APPLICATION: 1

Claims originally filed in this application are:

Claims 1 - 6.

Claims added after the first Office Action are:

Claims 7 and 8.

B. STATUS OF ALL THE CLAIMS.

1. Claims canceled: Claim 2 - 8.
2. Claims withdrawn from consideration but not canceled: None.
3. Claim pending: Claim 1.
4. Claims allowed: None.
5. Claims rejected: Claim 1.
6. Allowable Claims: None.

STATUS OF AMENDMENTS

A Final Office Action issued February 12, 2004, rejecting Claim 1 "under 35 U.S.C. 103(a)" and also rejecting Claim 1 "under 35 U.S.C. 112." A telephone interview was subsequently conducted between applicant's attorney and Examiner Smith. It was agreed that an amendment in the nature of an Examiner's amendment, in accordance with the Examiner's suggestions in the final Rejection, would be entered. Such amendment was then filed

7/23/2004 and the claims herein reflect such amendment and overcome the rejection based upon 35 U.S.C. 112.

A Notice of Appeal was filed May 26, 2004.

SUMMARY OF THE INVENTION

The invention is a system 10 for fastening purposes. A shaft 14 is fabricated of a rigid metallic material in a cylindrical configuration with an axis. The shaft has a handle end 16 and a working end 18. The shaft has a working inner portion 20 and a working outer portion 22. A square flat cut face 24 is on the outermost extent of the working end perpendicular to the axis of the shaft. The working outer portion has a generally cube-shaped configuration with a square cross section and an axial length of a first smaller size adjacent to the face. The working outer portion has four rectangular faces all in contact with and perpendicular to the square flat cut face of the shaft. The working inner portion has a generally cube-shaped configuration with a square cross section and an axial length of a second larger size adjacent to the working outer portion. A bevel 26 is adjacent to the working inner portion remote from the square flat cut face.

A screwdriver handle 30 has a shaft end 32 and a gripping surface end 34. The shaft end has a generally cylindrical recess 36 to securely receive and retain in one position the handle end of the shaft. The gripping surface end has a

plurality of axial indentations 38 to facilitate the user's grip of the system.

A threaded fastener 42 has a threaded portion 44 and a head portion 46. The threaded portion has threads 48 for coupling to a recipient surface upon rotation. The head portion has a cylindrical configuration with a central stepped recess. The stepped recess has a cube-shaped interior reception area 52 and a cube-shaped exterior reception area 54. The interior reception area is smaller than the exterior reception area. The interior reception area includes a square flat cut face and four rectangular faces all in contact with and perpendicular to the square flat cut face of the interior reception area. The interior reception area is adapted to snugly receive the working outer portion of the shaft. The exterior reception area is adapted to snugly receive the working inner portion of the shaft. Alternatively, wherein the threaded fastener is of a smaller size, the working outer portion is snugly receivable by the exterior reception area of the threaded fastener.

ISSUES

- 1) Whether the rejection of Claim 1 "under 35 U.S.C. 103(a) as being unpatentable over Parsons and Rocca" is proper;
- 2) Whether the Examiner is correct when he asserts that "It would be obvious to one skilled in the art at the time the

invention was made to modify Parsons by using a bevel because Rocca suggests the use of such a bevel"; and

3) Whether the Examiner is correct when he asserts that "It would be obvious to modify Rocca by using a square cross section instead of a hex as Parson suggests the shape to be well known and Rocca states that any well known shape can be used.

GROUPING OF CLAIMS

Claim 1 may be considered by itself since it is the only remaining claim in the application.

ARGUMENT

In the final rejection, the Examiner rejected Claim 1 "under 35 U.S.C. 103(a) as being unpatentable over Parsons and Rocca." This rejection is traversed. While there are similarities between applicant's invention as disclosed and claimed and the prior art as exemplified by Parsons and Rocca, there are also significant differences.

Applicant's invention can perhaps be best understood by reference to Appendix B hereinafter, where the lower two drawings show the present invention as a system of a fastener and a tool operable in a primary mode on the bottom left side of Appendix B and in the secondary mode as in the bottom right side of Appendix B. In the primary mode on the left, the tool has a working outer portion 22 below and a working inner portion 20 above with a bevel 26 adjacent to the shaft 14. At the very bottom of the

tool is a square flat cut face 24. In such embodiment, the working outer portion is received in the interior reception area 52 while the working inner portion is received in the exterior reception area 54. In the secondary mode, a smaller fastener is utilized with the same tool. In such secondary mode, the working outer portion 22 of the tool is located within the exterior reception area 54 with maximum contacts between the four vertical rectangular faces of the working outer portion of the tool and the interior reception area of the fastener.

In contrast to this, the prior art as exemplified by Parsons does teach the combination of a fastener and a tool. Note the top drawings of Appendix B. In the Parsons primary embodiment on the upper left, Figure 3 of his patent, the tool ends in a downwardly facing pyramid received within a pyramid shaped recess in the fastener. When, however, the Parsons tool is used with a smaller fastener, the presence of the downwardly facing pyramid as utilized in Parsons minimizes the operating contact faces when compared with the present invention which allows full face contact. As such, applicant's invention eliminates a part, along with its accompanying function, to yield a superior result which, it is urged, is a high quarter of invention. This is deemed clearly claimed in the present invention. It can be more clearly understood by reference to the drawings on Appendix B. Further,

there is nothing in Parsons to show a critical component of the present invention, the claimed square flat cut face.

Parsons does show two additional embodiments. Figure 6 shows a working inner portion of the tool in a cube-like configuration and then a depending slot-like member terminating in a lower rectangular, non-square, flat cut face. The Figure 9 embodiment is closer to Figure 6 with the lower end of the working outer portion being semicircular. The deficiency in Parsons, in addition to working in an inferior mode, is the lack of the showing of a square flat cut face as claimed and the bevel in the area between the working inner portion and the shaft.

The Examiner then turns to Rocca alleging that such system could be used with any corresponding fastener. It is urged that what the Examiner is considering to be the working inner portion 98 or 100 is no more than a tube for holding a pair of separable bits 76. There is no teaching or suggestion that the tube 100 can be a working portion of the tool. There is no showing that the tool of Rocca could be used in association with a fastener with an interior reception area and exterior reception area as disclosed and claimed herein.

In view of the foregoing, it is urged that the Examiner is wrong in his assertion that "Rocca suggests that a driver can have such a bevel at any point". Whether or not this is correct is immaterial due to the failure of Rocca to disclose a square

flat cut face as disclosed and claimed. Further, it is urged that the Examiner is wrong when he alleges that "It would have been obvious to modify Rocca by using a square cross section instead of a hex" inasmuch as Rocca does not teach the use of his tool with two working areas since 100 is merely a tube for holding a bit and not a working area and, more importantly, there is no disclosure of the use of the Rocca device with a fastener with the interior and exterior reception areas. Lastly, the Examiner is wrong when he responds to the prior arguments by alleging that "the end of the bed can be made flat, as clearly shown by both references, to engage a corresponding flat surface in the fastener." As can be clearly seen in the drawings of Appendix B, there is no teaching of the square flat cut face in any prior art reference in combination with the corresponding like-shaped fastener recess.

It would appear that the Examiner has merely gleaned miscellaneous features in the prior art and has attempted to combine them without a teaching for their combination. The only teaching is in applicant's disclosure which, by definition, is not prior art. But even if there were a teaching for the combination, the resulting structure would still fail to anticipate applicant's invention for the reasons set forth herein above.

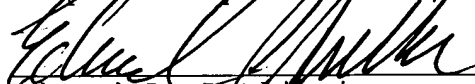
In summary, then, it is urged that applicant's invention is new, not being disclosed in the prior art. Applicant's invention is clearly useful as a significant step forward in the technology and it is urged, for the reasons advanced herein above, that applicant's invention is unobvious over the prior art, whether taken alone or in any possible combination.

CONCLUSION

In view of the deficiencies of the prior art cited and applied by the Examiner, it is requested that the rejections to the claim be withdrawn and the present application be allowed and passed to issue.

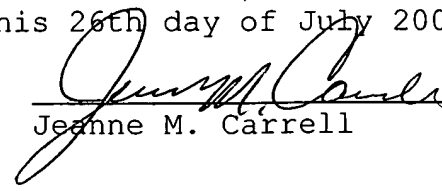
Reconsideration, a reversal of the Examiner's position, and a Notice of Allowance are requested.

Respectfully submitted,


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CERTIFICATE OF MAILING

I HEREBY CERTIFY that the foregoing Appeal Brief, in triplicate, is being deposited with the U.S. Postal Service with sufficient First Class postage addressed to: Mail Stop Appeal Brief - Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 this 26th day of July 2004.


Jeanne M. Carrell



APPENDIX A

CLAIMS

What is claimed as being new and desired to be protected by LETTERS PATENT of the United States is as follows:

1) A system for fastening purposes comprising, in combination:

a shaft fabricated of a rigid metallic material in a cylindrical configuration with an axis and having a handle end and a working end, the shaft having a working inner portion and a working outer portion and with a square flat cut face on the outermost extent of the working end perpendicular to the axis of the shaft, the working outer portion having a generally cube-shaped configuration with a square cross section and an axial length of a first smaller size adjacent to the face, the working outer portion having four rectangular faces all in contact with and perpendicular to the square flat cut face of the shaft, the working inner portion having a generally cube-shaped configuration with a square cross section and an axial length of a second larger size adjacent to the working outer portion, with a bevel adjacent to the working inner portion remote from the square flat cut face;

a screwdriver handle having a shaft end and a gripping surface end, the shaft end having a generally cylindrical recess to securely receive and retain in one position the handle end of

the shaft and with the gripping surface end having a plurality of axial indentations to facilitate the user's grip of the system; and

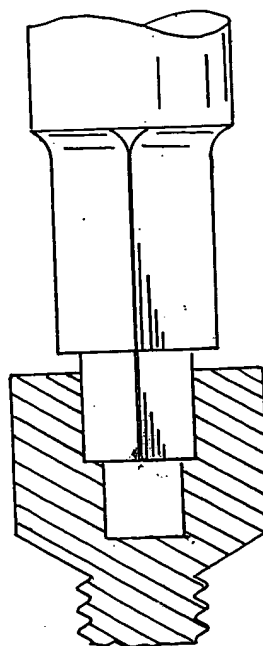
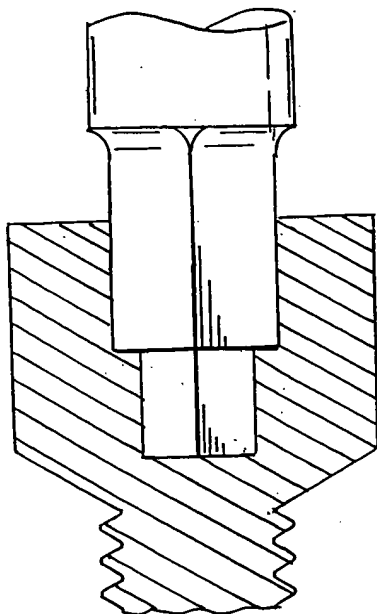
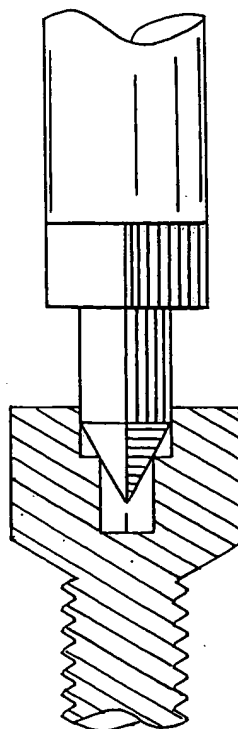
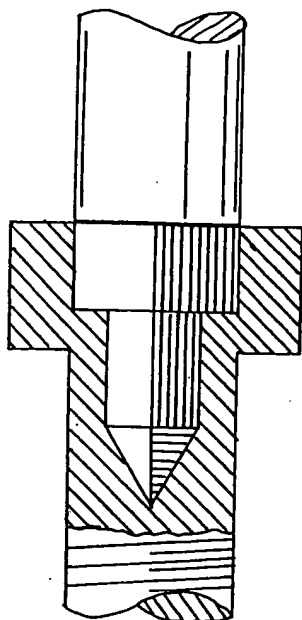
a threaded fastener having a threaded portion and a head portion, the threaded portion having threads for coupling to a recipient surface upon rotation and with the head portion having a cylindrical configuration with a central stepped recess, the stepped recess having a cube-shaped interior reception area and a cube-shaped exterior reception area with the interior reception area being smaller than the exterior reception area, the interior reception area including a square flat cut face and four rectangular faces all in contact with and perpendicular to the square flat cut face of the interior reception area, the interior reception area adapted to snugly receive the working outer portion of the shaft and with the exterior reception area adapted to snugly receive the working inner portion of the shaft and alternatively, wherein the threaded fastener is of a smaller size, the working outer portion is snugly receivable by the exterior reception area of the threaded fastener.

2 - 8 (Canceled)



APPENDIX B

PRIOR ART



PRESENT
INVENTION